



STATE CONTRACTORS BOARD

Investigations: (702) 486-1110

MINUTES OF THE WORKSHOP BEFORE THE NEVADA STATE CONTRACTORS BOARD HELD NOVEMBER 7, 2003

The workshop was called to order at 1:30 p.m. on Friday, November 7, 2003, at the offices of the State Contractors Board, 9670 Gateway Drive, Reno, Nevada 89521. Exhibit 1 is the Notice of Intent to Act Upon a Regulation and copies of the proposed regulations. Exhibit 2 is the sign-in log.

BOARD MEMBERS PRESENT:

Jerry Higgins
J. Brian Scroggins

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Ms. Nancy Mathias, Licensing Administrator
Mr. George Lyford, Director of Investigations

COUNSEL PRESENT:

Mr. Bruce Robb, Esq.
Ms. Carolyn Broussard, Esq

Ms. Grein called the workshop to order and explained the purpose of the workshop is to receive public comment on proposed amendments to Chapter 624 of the Nevada Administrative Code to implement Section 12 of Senate Bill No. 241 concerning constructional defects. Section 12 of SB 241 allows a claimant and any contractor, subcontractor, supplier and design professional to submit a question or dispute to the State Contractors Board concerning any matter which may affect or relate to a constructional defect, including, without limitation, questions concerning the need for repairs, the appropriate method for repairs, the sufficiency of any repairs that have been made and the respective rights and responsibilities of homeowners, claimants, contractors, subcontractors, suppliers and design professionals. Section 12 further provides that if a question or dispute is submitted to the State Contractors Board, the Board shall respond to the question or investigate the dispute and render a decision pursuant to the regulations, rules and procedures of the Board. The law further states that nothing in Section 12 authorizes the State Contractors Board to require the owner of a residence or appurtenance to participate in any administrative hearing which is held pursuant to this section and further declares that the response or decision of the Board is not binding; is not subject to judicial review nor is it admissible in any judicial or administrative proceeding brought pursuant to the provisions of this chapter.

The proposed regulation has been identified by the Legislative Counsel Bureau as LCB File No. R158-03.

Ms. Grein indicated that the notice of the workshop had been posted in compliance with NRS 233B at the Las Vegas City Hall, the Sawyer State Building, Clark County Library, Washoe County Courthouse, Washoe County Library, Reno City Hall and the offices of the State Contractors Board in Reno and Henderson.

Mr. Grein noted that the matter had originally be noticed for both a workshop and public hearing, however, since the proposed regulation had been substantially revised by the Legislative Counsel Bureau, it was determined to hold only the workshop and conduct the hearing at a later date.

Robert Maddox, Esq, spoke on behalf of the Nevada Trial Lawyers Association. Mr. Maddox expressed concerns concerning several of the provisions in Section 15 of the regulation and also indicated that he felt that the language of Section 15 seems to require homeowner participation to bring a constructional defect dispute to the Contractors Board in direct conflict with Section 12(2) of Senate Bill 241.

Mike Holmes, President of Northern Nevada Builders Association expressed his concerns regarding several sections of the regulation, including the definition of design professional, expert witness and industry standards. Mr. Holmes also expressed concern about Section 16 of the regulation that requires that fees and costs be paid by the licensee and not other members to the proceeding. In addition Mr. Holmes questioned how the Board would approach the issue of having a construction defect dispute filed under this regulation and a complaint filed by a homeowner under the normal complaint process at the same time.

Bruce King as a member of the Coalition expressed his thoughts that the proposed regulation appears too complex and he would like a more simple process. Mr. King feels there is a need to further clarify Sec. 8 and Sec. 9 of the proposed regulation concerning the term "Group of petitioners" and its exact meaning. He commented further on Sec. 15 of the regulation and expressed his concern that the regulation will make the process far more complex that the intent of the law.

Mr. Jim Wadhams, representing the Southern Nevada Home Builders agreed that he felt the proposed regulation is too complex and should be modified and simplified. Mr. Wadhams indicated that he has drafted proposed revisions that he would like the Board to consider and would be happy to work with other parties to develop a compromise regulation.

Mr Scott Canepa, Nevada Trial Lawyers Association stated that he concurs with Mr. Maddux and would be happy to work with other interested parties to develop a revised regulation.

Ms. Grein indicated that she will provide a summary of the comments to the Board members and that possibly another workshop would be scheduled. Ms. Grein expressed her thanks to the attendees and indicated they will be notified of any future proceedings.

The workshop was adjourned at 2:30 p.m.

Respectfully submitted,

Jeanne Reynolds
Recording Secretary

Approved:

Margi A. Grein, Executive Officer